IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 302 OF 1997.

The Commissioner of Income-tax ... Applicant.

V/s.

Tata Power Co. Ltd. ... Respondent.

Shri Parag Vyas with Shri Ashok Kotangale and
A.S. Rao for the applicant.

Shri P.C. Tripathi for the respondent.

CORAM : V.C.DAGA AND J.P. DEVADHAR, JJ.

DATED : 17.10.2005.

P.C. :

. By this reference under section 256(1) of the Income tax Act, 1961, the Income Tax Appellate Tribunal has referred the following substantial question of law for the opinion of this Court:

> . "Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the assessee was entitled to deduction of the entire initial contribution paid to the approved superannuation fund under the provisions of sec. 37 of the Income-tax Act as representing the liability of the assessee for the assessment year under consideration?"

. Learned Counsel for the parties agreed that the above question is already answered by the Division Bench of this Court in the case of **C.I.T. vs. Sirpur Paper Mills reported in (1999) 237 ITR**

41, in favour of the assessee and against the revenue. In this view of the matter, reference is answered in favour the assessee and against the revenue.

. Reference stands disposed of with no order as to costs.